

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To L. Wayne Gertmenian, President and Chief Executive Officer, the Jockeys' Guild

You are hereby commanded to be and appear before the Committee on Energy and Commerce
Subcommittee on Oversight and Investigations

of the House of Representatives of the United States at the place, date and time specified below.

to testify touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____	
Date: _____	Time: _____

to produce the things identified on the attached schedule touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: <u>2125 Rayburn House Office Building</u>	
Date: <u>October 3, 2005</u>	Time: <u>5:00 p.m.</u>

To the U.S. Marshal or any staff member of the Committee on Energy and Commerce

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States,
at the city of Washington, this 20th day of September, 2005.

Attest:

[Signature]

Clerk

[Signature]
Chairman or Authorized Member

PROOF OF SERVICE

Subpoena for <u>L. Wayne Gertmenian, President and Chief Executive Officer, the Jockeys' Guild</u>	
Address _____	

before the <u>Committee on Energy and Commerce</u>	
<u>Subcommittee on Oversight and Investigations</u>	
<i>U.S. House of Representatives</i> <i>109th Congress</i>	

Served by (print name) _____	
Title _____	
Manner of service _____	

Date _____	
Signature of Server _____	
Address _____	

Attachment to Subpoena

- 1 All records of Matrix Capital Associates, Inc. (Matrix), that relate to compensation or other payment received from Matrix for goods or services provided to or for the Jockeys' Guild (Guild), including, but not limited to: all Internal Revenue Service (IRS) Form 1099's that have been prepared and submitted by the Guild or Matrix; all written records related to services provided by any attorney who has performed work for or on behalf of the Guild; agreements or contracts between Matrix and any individual who has performed work for or represented the Guild; and all records of compensation paid to such individuals, including all reimbursed expenses.
2. An executed copy of every Guild contract since 2001 with Dr. Wayne Gertmenian, Matrix, or any other organization directly or indirectly controlled by Wayne Gertmenian; copies of all checks paid to Matrix by the Guild; all records related to the services provided by Matrix to the Guild, including but not limited to, memoranda, reports, or spreadsheets; and, all records related to assessments by, or reports to, the Guild's Board of Directors regarding the services provided by Matrix, including but not limited to meeting minutes, correspondence, e-mails, or memoranda.
- 3 All records related to the Guild's health insurance policies since 1999, including but not limited to: assessments, minutes, notes, correspondence, internal meetings, or memoranda; all documents submitted to or by the Guild's insurance broker, for the purposes of retaining other insurance companies to assist with the Guild's self-insured health benefits program; all annual financial reports that must be provided to members of the Guild's health benefits program pursuant to federal requirements under the Employee Retirement Income Security Act (ERISA); all health benefits program "Form 5500"s that must be submitted under ERISA; records related to those jockeys for whom the Guild has paid, in the past or currently, a portion or all of their insurance premium obligations; and any records related to the Guild's payment of health insurance premiums for its employees and who those employees are.
4. All records related to the Guild's decision to allow its supplemental on-track accident insurance policy to lapse in 2002, including, but not limited to: assessments, minutes, notes, correspondence, internal memoranda; any written notice provided to Guild members; and, the minutes and transcripts of all Guild meetings, including Guild Board of Directors or Senate meetings, at which the catastrophic insurance policy was discussed or at which the Board decided not to renew the policy.
5. All records related to written agreements since 1999, or proposals for future agreements, between the Guild and the Thoroughbred Racing Association (TRA), its member race tracks, or any other thoroughbred race track, including, but not limited to, agreements pertaining to mount fees, horsemen's bookkeeper fees, track safety guidelines, and media rights negotiations; and all records related to correspondence between the Guild and the TRA or any thoroughbred race track.
6. All records related to agreements since 1999 between the Guild and any individual state, including, but not limited to, all health and welfare fund agreements, and any

correspondence between the Guild and any individual state racing organization, such as state racing authorities or horse racing boards.

7. All records related to each of the Guild's sources of revenue, since 2000, including, but not limited to: media rights agreements or contracts; email documents to or from the Guild's past and current Chief Financial Officers; spreadsheets regarding jockeys' mount fees and health insurance premium payments; receipts for payments made to the Guild by any thoroughbred race track; and all receipts, records, and audits of payments and distributions related to the Guild's Disabled Jockeys Fund and the Guild's California, Delaware, and Massachusetts Health and Welfare Funds.
8. All records related to all special or regular Guild meetings, since 1999, of the Guild's Board of Directors or Senate (such as meeting minutes and transcripts), including but not limited to any meeting at which all past and current contracts and compensation for Dr. Gertmenian or Matrix was discussed, evaluated, determined, or approved.
9. All records in the possession or control of the Guild or Wayne Gertmenian related to the Disabled Jockeys' Endowment (Endowment), including, but not limited to: documents regarding fund-raising work done for the Endowment by employees of the Guild; copies of all checks written to the Endowment; all relevant tax records; all e-mail documents between officers or trustees of the Endowment (including any email documents in the custody of Jami Hall or other Guild employees); documents inviting the Directors (Trustees) or "Advisory Council" members of the Endowment to hold a fiduciary position with the Endowment, as well as any documents showing that the individuals accepted such fiduciary positions; and all Endowment-related correspondence.
10. All records related to any compensation provided by the Guild or Matrix to members of the Guild's Board of Directors.
11. All records related to the Guild's "Disabled Jockeys Committee" and advisory board, including, but not limited to: minutes of any Guild Board of Directors' meetings establishing or designating the responsibilities of the Committee; any announcements, written information, or notice provided to Guild members about the new Committee; all records relating to the current benefits disbursement process; and all e-mails and correspondence related to the Fund or to disabled riders, including but not limited to all e-mails, minutes, and correspondence in the possession of the Guild's Disabled Benefits Coordinator.
12. All records related to the Disabled Jockeys Fund, including, but not limited to: copies of all checks made to, or for the benefit of, temporarily and permanently disabled jockeys since June 2001; all written correspondence and e-mails between Guild staff and disabled riders; and all other records or reports regarding work the Guild has done for its disabled members.

Instructions

In complying with this subpoena, you are required to produce all responsive records that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You are also required to produce records that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as records that you have placed in the temporary possession, custody, or control of any third party. No records, documents, data or information called for by this request shall be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee on Energy and Commerce.

2. In the event that any entity, organization or individual denoted in this subpoena has been, or is also known by any other name than that herein denoted, the subpoena shall be read also to include them under that alternative identification.
3. Each record produced shall be produced in a form that renders the record capable of being copied.
4. Records produced in response to this subpoena shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when this subpoena was served.
5. All records, or groups of records, produced shall be identified by the paragraph number in the Attachment to which records, or groups of records, are responsive.
6. It shall not be a basis for refusal to produce records that any other person or entity also possesses non-identical or identical copies of the same document.
7. If any of the subpoenaed information is available in machine-readable form (such as punch cards, paper or magnetic tapes, drums, disks, or core storage), state the form in which it is available and provide sufficient detail to allow the information to be copied to a readable format. If the information requested is stored in a computer, indicate whether you have an existing program that will print the records in a readable form.
8. If compliance with the subpoena cannot be made in full, compliance shall be made to the extent possible, and your production shall be accompanied by a written explanation of why full compliance is not possible.
9. In the event that a record is not produced on the ground of privilege, provide the following information concerning each and every such record withheld from production: (a) privilege asserted; (b) type of document; (c) general subject matter; (d) date, author and addressee; and (e) relationship of author and addressee.
10. If any record responsive to this subpoena was, but no longer is, in your possession, custody, or control, identify the record (stating its date, author, subject and recipient(s)) and explain the circumstances by which the record ceased to be in your possession, custody, or control.

11. If a date or other descriptive detail set forth in this subpoena referring to a record is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all records which would be responsive as if the date or other descriptive detail were correct.
12. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.
13. All records shall be bates-stamped sequentially and produced sequentially.
14. Two sets of responsive records shall be produced and delivered to Room 2125, Rayburn House Office Building.

Definitions

1. The term "record" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, spreadsheets, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might

otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The term “identify,” when used in a question about individuals, means provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
5. The terms “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.